In the Supreme Court of the United States

OCTOBER TERM, 1963

No. 325

JOSEPH BACINO, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

The judgment of the court of appeals was entered on April 15, 1963, and its opinion is reported at 316 F. 2d 11. A petition for rehearing was denied on May 6, 1963 (Pet. App. 1). The petition for a writ of certiorari was not filed until August 2, 1963. A petition filed 88 days after the denial of the petition for rehearing by the court of appeals in a criminal case is manifestly out of time under Rule 22-2 of the Rules of this Court.

In any event, the facts and the law relating to the issue raised in the petition—whether the trial court on its own motion should have conducted a full-dress hearing on possible bias of a juror—is fully canvassed in the opinion of the court of appeals (Pet. App. 1-7). For the reasons there stated, we believe that the conviction was properly affirmed and that the petition for a writ of certiorari should be denied.

Respectfully submitted.

ARCHIBALD COX,
Solicitor General.

AUGUST 1963

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